UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/604,270 07/08/2003		Chuen-Ru Lee	9173-US-PA	1269	
	7590 07/03/2007 N INTELLECTUAL PRO	EXAM	EXAMINER		
7 FLOOR-1, N	IO. 100	JONES,	JONES, HUGH M		
ROOSEVELT ROAD, SECTION 2 TAIPEI, 100			ART UNIT	PAPER NUMBER	
TAIWAN		2128			
			NOTIFICATION DATE	DELIVERY MODE	
		•	07/03/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USA@JCIPGROUP.COM.TW

	Application No.	Applicant(s)			
	10/604,270	LEE ET AL.			
Office Action Summary	Examiner	Art Unit			
	Hugh Jones	2128	•		
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet w	ith the correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DATE - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period was reply received by the office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNI 36(a). In no event, however, may a will apply and will expire SIX (6) MOI 4, cause the application to become A	CATION. reply be timely filed  NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).	•		
Status					
<ul> <li>1) ⊠ Responsive to communication(s) filed on <u>05 Mes</u></li> <li>2a) ☐ This action is <b>FINAL</b>. 2b) ⊠ This</li> <li>3) ☐ Since this application is in condition for alloward closed in accordance with the practice under E</li> </ul>	action is non-final.  nce except for formal mat				
Disposition of Claims					
<ul> <li>4)  Claim(s) 1-20 is/are pending in the application.</li> <li>4a) Of the above claim(s) is/are withdraw</li> <li>5)  Claim(s) is/are allowed.</li> <li>6)  Claim(s) 1-20 is/are rejected.</li> <li>7)  Claim(s) is/are objected to.</li> <li>8)  Claim(s) are subject to restriction and/or</li> </ul>	wn from consideration.				
Application Papers					
9) ☐ The specification is objected to by the Examine 10) ☑ The drawing(s) filed on 05 March 2007 is/are: Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) ☐ The oath or declaration is objected to by the Examine	a) accepted or b) otherwing (s) be held in abeyation is required if the drawing	nce. See 37 CFR 1.85(a). g(s) is objected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119		•			
12) ⊠ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ⊠ All b) ☐ Some * c) ☐ None of:  1. ☑ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.					
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	Paper No	Summary (PTO-413) (s)/Mail Date Informal Patent Application 			

Art Unit: 2128

#### **DETAILED ACTION**

1. Claims 1-20 of U. S. Application 10/604,270, filed 7/8/2003, are pending.

## Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- 3. Claim 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is drawn to non-statutory subject matter since the claims do not produce a concrete, useful and tangible result.
- 4. It is not clear what constitutes the concrete, useful, tangible results. For example, consider claim 1:
  - 1. (currently amended) A method [[for-designing]]to design a liquid crystal display device, implemented in a computing system, the method comprising the steps of:

    measuring at least one viewing angle [[among]]in each of a plurality of liquid crystal display films, and determining a desired range of a cell gap between liquid crystal adjacent cells of a liquid crystal display device;

    calculating a panel transmittance rate and a gamut of a plurality of liquid crystal

modules, and determining at least one value [[ef]] from the range of the cell yap;

obtaining optic characteristics of a plurality of color filter films and color

modules, and determining a set of optic characteristics for a color filter as well as for the

liquid crystal display device; and

adjusting [[values related]] a plurality of quantities, relating to the set of optic characteristics of the liquid crystal display device and the color filter, thereby producing a set of adjusted guantities[[values]] for present as well as future design purposes.

Adjusting some unknown quantity and thereby producing another unknown "adjusted" quantity does not provide for a concrete, useful, tangible result.

Art Unit: 2128

5. The above issues apply to all claims.

- 6. Analysis of claims 17-20 also indicates that the "system" or "system" is broad enough to include nonstatutory examples. The "data base" may also be mere software and broad enough to be nonstatutory.
- 7. Paragraph 61 of the specification discloses:

readable by a CD-ROM drive); (ii) alterable information stored on writable storage media (e.g., floppy disks within a diskette drive or hard-disk drive); or (iii) information conveyed to a computer by a communications medium, such as through a computer or telephone network, including wireless communications. The latter embodiment specifically includes information downloaded from the Internet and other networks. Such signal-bearing media, when carrying computer-readable instructions that direct the functions of the present invention, represent embodiments of the present invention.

- 8. The system claims are directed to method steps, and are not in standard US format.
- 9. An invention which is eligible for patenting under 35 U.S.C. 101 is in the useful arts when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The fundamental test for patent eligibility is thus to determine whether the claimed invention produces a "useful, concrete and tangible result." The test for practical application as applied by the examiner involves the determination of the following factors:

**Art Unit: 2128**.

(1) Useful - The Supreme Court in *Diamond v. Diehr* requires that the examiner look at the claimed invention as a whole and compare any asserted utility with the claimed invention to determine whether the asserted utility is accomplished. Applying utility case law the examiner will note that:

- (a) the utility need not be expressly recited in the claims, rather it may be inferred.
- (b) if the utility is not asserted in the written description, then it must be well established.

Furthermore, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

- (2) Tangible Applying *In re Warmerdam*, 33 F.3d 1354, 31 USPQ2d 1754 (Fed. Cir. 1994), the examiner will determine whether there is simply a mathematical construct claimed, such as a disembodied data structure and method of making it. If so, the claim involves no more than a manipulation of an abstract idea and therefore, is nonstatutory under 35 U.S.C. 101. In *Warmerdam* the abstract idea of a data structure became capable of producing a useful result when it was fixed in a tangible medium which enabled its functionality to be realized.
- (3) Concrete Another consideration is whether the invention produces a concrete result. Usually, this question arises when a result cannot be assured. An appropriate rejection under 35 U.S.C. 101 should be accompanied by a lack of enablement rejection, because the invention cannot operate as intended without undue

Art Unit: 2128

experimentation.

10. A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan (discussed in i) below), or (B) be limited to a practical application within the technological arts (discussed in ii) below). See Diamond v. Diehr, 450 U.S. at 183-84, 209 USPQ at 6 (quoting Cochrane v. Deener, 94 U.S. 780, 787-88 (1877)) ("A [statutory] process is a mode of treatment of certain materials to produce a given result. It is an act, or a series of acts, performed upon the subject-matter to be transformed and reduced to a different state or thing.... The process requires that certain things should be done with certain substances, and in a certain order; but the tools to be used in doing this may be of secondary consequence."). See also Alappat, 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting Diamond v. Diehr, 450 U.S. at 192, 209 USPQ at 10). See also id. at 1569, 31 USPQ2d at 1578-79 (Newman, J., concurring) ("unpatentability of the principle does not defeat patentability of its practical applications") (citing O 'Reilly v. Morse, 56 U.S. (15 How.) at 114-19). If a physical transformation occurs outside the computer, a disclosure that permits a skilled artisan to practice the claimed invention, i.e., to put it to a practical use, is sufficient. On the other hand, it is necessary for the claimed invention taken as a whole to produce a practical application if there is only a transformation of signals or data inside a computer or if a

Art Unit: 2128

process merely manipulates concepts or converts one set of numbers into another.

11. The claims do not provide for a concrete, useful, tangible result.

## Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 13. Claims 17-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
- 14. The preamble recites "... the system includes <u>means for</u> performing..." and therefore the claim is a "single means" claim. A single means claim, does not comply with the first paragraph of section 112. See *In re Hyatt*, 708 F.2d 712, 218 USPQ 195, 197 (Fed. Cir. 1983) ("the enabling disclosure of the specification [must] be commensurate in scope with the claim under consideration."). A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because

Art Unit: 2128

the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to *Hyatt* is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor.

- 15. Donaldson does not affect the holding of *In re Hyatt*, 708 F.2d 712, 218 USPQ 195 (Fed. Cir. 1983) to the effect that a single means claim does not comply with the enablement requirement of 35 U.S.C. 112, first paragraph. As *Donaldson* applies only to an interpretation of a limitation drafted to correspond to 35 U.S.C. 112, sixth paragraph, which by its terms is limited to "an element in a claim to a combination," it does not affect a limitation in a claim which is not directed to a combination. See also MPEP § 2164.08(a).
- 16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 17. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:
- 18. As explained in earlier actions, the issue is as follows. Due to the idiomatic and grammatical issues associated with the specification and claims, it is difficult to determine the unambiguous meaning of the claims.
- 19. Examples include (only a few are provided):

<sup>1</sup> A method to design a liquid crystal display device, implemented in a computing system, the method comprising the steps of:

**Art Unit: 2128** 

measuring at least one viewing angle among a plurality of liquid crystal display films, determining a range of a gap between liquid crystal cells of a liquid crystal display device (how?); based upon (how?) the panel transmittance and gamut of a plurality of liquid crystal modules, determining at least one value of the gap between liquid crystal cells of the liquid crystal display device; based upon optic characteristics of a plurality of color filter films and color modules, determining a set of optic characteristics for a color filter as well as for the liquid crystal display device; and adjusting values related to the set of optic characteristics of the liquid crystal display device and the color filter, thereby producing a set of adjusted values for present as well as future design purposes. (the meaning is not clear)

- 2. The method of claim 1, wherein the range of the gap is determined using (how?) at least two values of the gaps of the plurality of liquid crystal display films along with the viewing angles corresponding thereto, thereby establishing a formula (how?) expressing the range using the values of the gaps and their corresponding viewing angles.
- 3. The method of claim 2, wherein the formula is obtained (how?) using trendline regression.
- 20. The system of claim 19, wherein a computer program is used to perform the steps. (a program cannot perform steps)

## Claim Interpretation

20. Recitations following words such as *suitable* are provided no patentable weight. See claim 11 ("11. A method for designing a liquid crystal display module *suitable for* developing a system for designing a product, the system includes a database, wherein color characteristic parameters relating to a plurality of liquid crystal film, to a plurality of color filter film, to a plurality of testing modules, and to a plurality of").

#### No Prior Art Rejection

21. Respectfully, the Examiner spent considerable time reviewing Applicant's arguments, the amended claims as well as the specification and conducted an extensive search of the art – and the meaning of the claims is still not understood. No prior art rejection is applied because it would require <u>further</u> considerable speculation

Art Unit: 2128

regarding the meaning of the claims, for the reasons provided earlier.

22. As per the MPEP; see In re Wilson, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970) (if no reasonably definite meaning can be ascribed to certain claim language, the claim is indefinite, not obvious) and In re Steele, 305 F.2d 859,134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).

# Allowable Matter

23. It appears that determining an optimal distance between pixels in order to obtain a particular viewing angle is novel and non-obvious over the prior art of record. However, this is based upon an educated guess as to Applicant's invention (Applicant's arguments re "adjacent cells"). It has not been claimed or persuasively shown to be present in Applicant's specification.

# Response to Arguments

- 24. Applicant's arguments, filed 3/5/2007, are not persuasive. Applicants are thanked for the figure, amendments and remarks.
- 25. The 101 rejections are maintained. It is not clear what constitutes the concrete, useful, tangible results. For example, consider claim 1:

Art Unit: 2128

1. (currently amended) A method [[for-designing]]to design a liquid crystal display device, implemented in a computing system, the method comprising the steps of:

measuring at least one viewing angle [[mnong]]in each of a plurality of liquid crystal display films, and determining a desired range of a cell gap between liquid crystal adjacent cells of a liquid crystal display device;

calculating a panel transmittance rate and a gamut of a plurality of liquid crystal modules, and determining at least one value [[ef]] from the range of the cell gap;
obtaining optic characteristics of a plurality of color filter films and color modules, and determining a set of optic characteristics for a color filter as well as for the liquid crystal display device; and

adjusting [[values related]] a plurality of quantities, relating to the set of optic characteristics of the liquid crystal display device and the color filter, thereby producing a set of adjusted guantities[[values]] for present as well as future design purposes.

Adjusting some unknown quantity and thereby producing another unknown "adjusted" quantity does not provide for a concrete, useful, tangible result.

- 26. Applicants argue that a database is inherent in a system and therefore does not need to be claimed. This is not supported by the MPEP or case law.
- 27. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to: Dr. Hugh Jones telephone number (571) 272-3781, Monday-Thursday 0830 to 0700 ET,

or

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

#### mailed to:

Commissioner of Patents and Trademarks Washington, D.C. 20231

Art Unit: 2128

## or faxed to:

(703) 308-9051 (for formal communications intended for entry)

or (703) 308-1396 (for informal or draft communications, please label PROPOSED or DRAFT).

/Hugh Jones/

Primary Examiner, Art Unit 2128

June 22, 2007

Page 11

Application/Control Number: 10/604,270 Page 12

Art Unit: 2128

Google

Web Images Video News Maps more »

lcd "pixel density" "viewing angle" design

Search

Advanced Searc Preferences

Web

High-Resolution, Wide-Aspect, and Wide-Viewing Displays on Dell ...

This **pixel density** is measured in pixels per inch (ppi). ... **LCD** specifications describe the maximum **viewing angle** at a contrast ratio of 10:1. ...

www.dell.com/content/topics/global.aspx/vectors/en/2002\_lcd?c=us&l=en&s=corp - 30k - Dec 7, 2006 - Cached - Similar pages

#### [PDF] LCD May 2003 update.fm

File Format: PDF/Adobe Acrobat - View as HTML

This pixel density is measured in. pixels per inch (ppi). The higher the ppi of an LCD (or.

CRT), the higher the resolution that can be displayed on ...

www.dell.com/downloads/global/vectors/2002\_lcd.pdf - Similar pages

[ More results from www.dell.com ]

## [PDF] 7.2: A 4.3-inch full-colour a-Si:H TFT active matrix liquid ...

File Format: PDF/Adobe Acrobat - View as HTML

Pixel density, 312. LCD mode. Normally white TN. P. ERFORMANCES. Open aperture ratio.

33%. Transmission. 4.0%. Specular reflection. 1%. Viewing angle ... www.eldim.fr/library/publications/tr\_sid-2003-07\_02.pdf - Similar pages

Apple 30 Inch Cinema HD Display from zZounds.com

And of course with an Apple Display, you get all the benefits **LCD** technology has ... **Viewing Angle** (typical): 170 degrees horizontal; 170 degrees vertical ...

www.zzounds.com/item--APLCINEMAHD30 - 49k - Cached - Similar pages

#### Samsung Electronics - LNR2050 20in LCD TV with PC/DVD/TV Inputs ...

High resolution **pixel density** with built-in image scaler handles inputs from a variety of digital and analog audio/video sources. Samsung's **LCD** TV's give ...

www.pcmall.com/pcmall/shop/detail~dpno~7045873.asp - 81k - Cached - Similar pages

## Amazon.com: Sharp Aquos LC-46D62U 46" 1080p LCD HDTV: Electronics

Higher **pixel density** provides added clarity for digital TV, DVD, and HDTV. ... significantly improves color reproduction at virtually every **viewing angle**. ... www.amazon.com/Sharp-Aquos-LC-46D62U-1080p-HDTV/dp/product-

description/B000HKHLPA - 77k - Cached - Similar pages

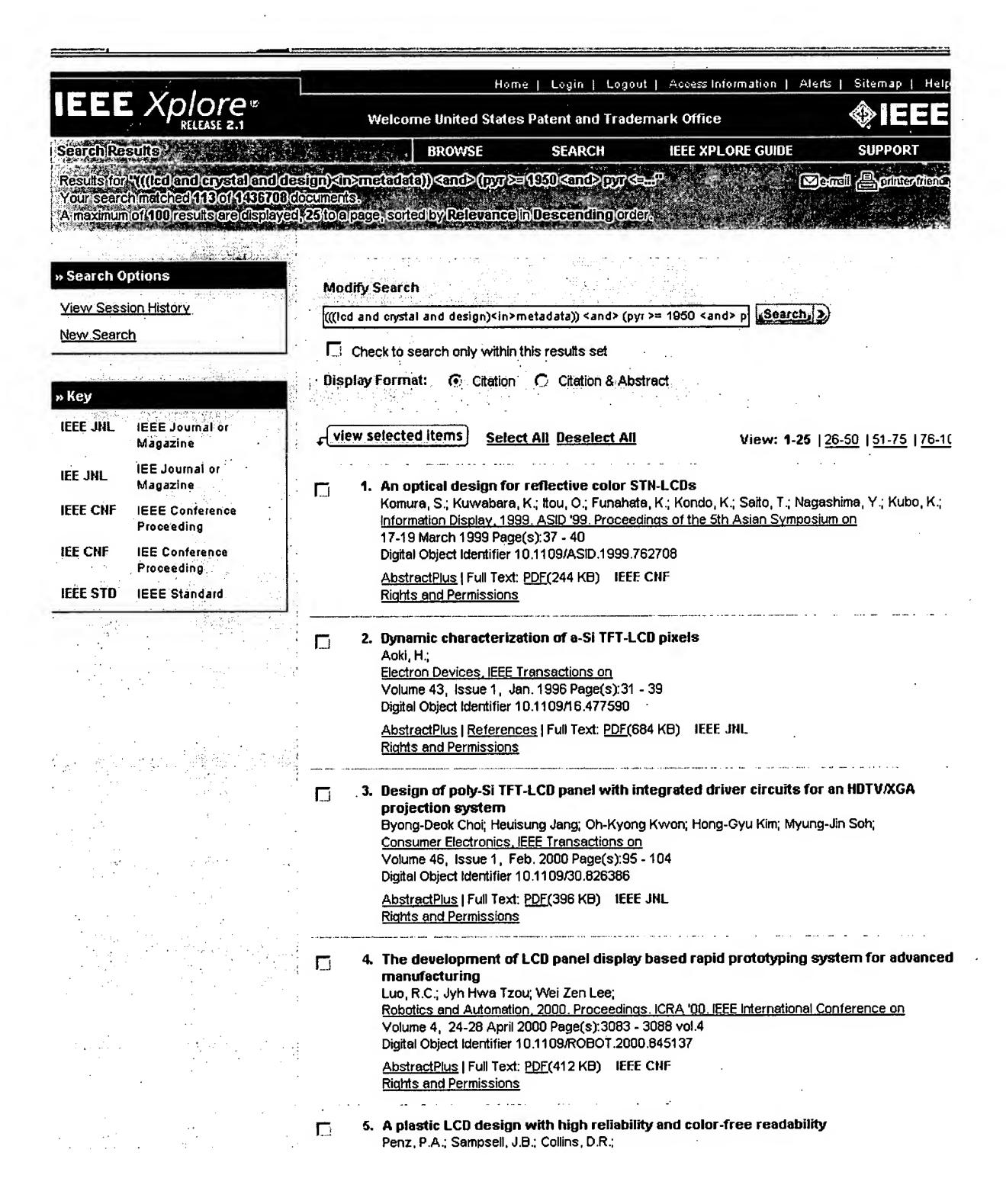
#### [PDF] \*\*\*\*\*For Immediate Release (May 24, 2005)

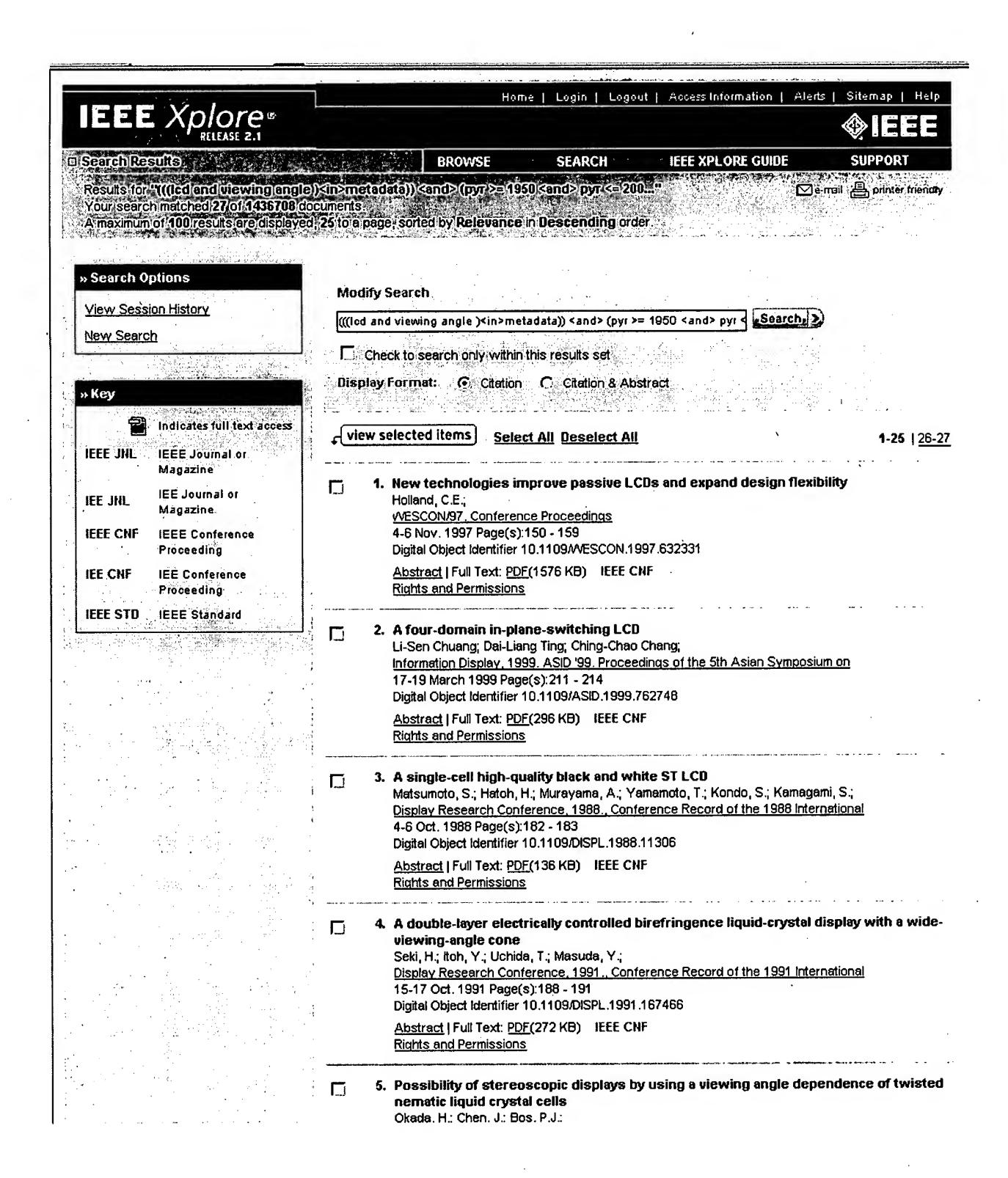
File Format: PDF/Adobe Acrobat - View as HTML

(UA-SFT), which bolsters an LCD's brightness, broadens its effective viewing angle,

heightens its response time and delivers high pixel density (up to 200 ...

://ieeexplore.ieee.org/search/searchresult.jsp?SortField=Score&Soi					
	GSea	rch ▼   SP   EAutoFill			
< : - · · · · · · · · · · · · · · · · · ·	Modify !				
		ck to search only within this results set			
	3	Format: © Citation C Citation & Abstract			
text access	vious	view selected items   Select All Deselect All			
10	₹ NEW 2	elected items   Select All Deselect All			
nce	<b>1.</b>	A plastic LCD design with high reliability and color-free readability Penz, P.A.; Sampsell, J.B.; Collins, D.R.; Electron Devices; IEEE Transactions on			
		Volume 32, Issue 11, Nov 1985 Page(s):2206 - 2213			
CE		Abstract   Full Text: PDF(1480 KB) IEEE JNL Rights and Permissions			
ď	2.	New technologies improve passive LCDs and expand design flexibility Holland, C.E.;			
		VESCON/97. Conference Proceedings 4-6 Nov. 1997 Page(s):150 - 159			
		Digital Object Identifier 10.1109AVESCON.1997.632331			
		Abstract   Full Text: PDF(1576 KB)   IEEE CNF Rights and Permissions			
	<b>3.</b>	Colorimetric property of guest-host liquid crystal displays Seki, H.; Uwano, T.; Uchida, T.;			
		Information Display, 1999, ASID '99. Proceedings of the 5th Asian Symposium on 17-19 March 1999 Page(s):347 - 350			
		Digital Object Identifier 10.1109/ASID.1999.762778 <u>Abstract</u>   Full Text: <u>PDF(200 KB)</u>   IEEE CNF			
		Rights and Permissions			
	<b>5</b> 4.	Design, synthesis and properties of polyimide alignment materials  Fu-Lung Chen; Ted-Horng Shinn; Chein-Dhau Lee; Wen-Shiang Wang;			
		Information Display, 1999, ASID '99. Proceedings of the 5th Asian Symposium on 17-19 March 1999 Page(s):365 - 368 Digital Object Identifier 10.1109/ASID.1999.762782			
		Abstract   Full Text: PDF(204 KB)   IEEE CNF   Rights and Permissions			
	<b>5.</b>	A single-cell high-quality black and white ST LCD  Matsumoto, S.; Hatch, H.; Murayama, A.; Yamamoto, T.; Kondo, S.; Kamagami, S.; <u>Display Research Conference, 1988., Conference Record of the 1988 International</u> 4-6 Oct. 1988 Page(s):182 - 183  Digital Object Identifier 10.1109/DISPL.1988.11306			
		Abstract   Full Text: PDF(136 KB)   IEEE CNF   Rights and Permissions			
	<b>6.</b>	A single-cell high-quality black and white ST liquid-crystal display Matsumoto, S.; Hatoh, H.; Murayama, A.; Yamamoto, T.; Kondo, S.; Kamagami, S.; Electron Devices, IEEE Transactions on Volume 36, Issue 9, Part 2, Sept. 1989 Page(s):1905 - 1909 Digital Object Identifier 10.1109/16.34268			
		Abstract   Full Text: PDF(660 KB)   IEEE JNL   Rights and Permissions			





```
S38: (1) ("4048481").PN.
. $\frac{1}{2}$ $40: (1) simulat$4 and $39
$\frac{1}{2}$ $42: (1) ("6259503").PN.
-% S45: (0) "pixel to pixel"
$347: (141) $44 and $46
549: (12400) viewing adj angle
S52: (237) pixel adj separation
S53: (0) S47 and S52
$\text{S54:} (0) $44 and $52
S55: (22) 1cd and S52
S56: (1) S49 and S55
$558: (2236) cell adj separation
-% S59: (12) S49 and S58
S60: (2582) lcd with design$3
- S62: (65) S61 and separation
S61: (304) S60 and S49
S63: (35) S62 and (simulat$4 or model$3)
. $\frac{12}{2}$ $64: (12) $62 and simulat$4
≫ S65: (0) S49 same ppi and 1cd
₹ 566: (13) S49 and ppi and lcd
```